

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1076-MWD-E TCEQ ID: RN102834405 CASE NO.: 34142
RESPONDENT NAME: City of Frankston

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Frankston Caddo Creek Wastewater Treatment Facility, located south of the City of Frankston, immediately north of Caddo Creek, and approximately 1000 feet south and 1500 feet east of the intersection of State Highway 175, Anderson County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team I, MC 169, (254) 751-0335; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable James Gouger, Mayor, City of Frankston, PO Box 186, Frankston, Texas 75763 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 12, 2007</p> <p>Date of NOE Relating to this Case: June 26, 2007</p> <p>Background Facts: This was a routine records review.</p> <p>WATER</p> <p>1) Failure to comply with its permitted effluent limits for dissolved oxygen, pH, flow, ammonia-nitrogen, and five-day biochemical oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010441001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].</p> <p>2) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010441001, Sludge Provisions].</p>	<p>Total Assessed: \$9,840</p> <p>Total Deferred: \$1,968 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$7,872</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the City submitted the annual sludge report on July 26, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit Number WQ0010441001.</p>

Additional ID No(s): TPDES0033456



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	2-Jul-2007	Screening	6-Jul-2007	EPA Due	
	PCW	28-Sep-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Frankston		
Reg. Ent. Ref. No.	RN102834405		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34142	No. of Violations	2
Docket No.	2007-1076-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$4,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **155% Enhancement** **Subtotals 2, 3, & 7** **\$6,355**

Notes The penalty is enhanced because the Respondent self reported 31 months of effluent violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** **\$0**
 Total EB Amounts \$205
 Approx. Cost of Compliance \$2,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$10,455**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-6%** **Adjustment** **-\$615**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommended reduction to prevent the self-reported violations from overly impacting the penalty.

Final Penalty Amount **\$9,840**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,840**

DEFERRAL **20% Reduction** **Adjustment** **-\$1,968**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,872**

Screening Date 6-Jul-2007

Docket No. 2007-1076-MWD-E

PCW

Respondent City of Frankston

Policy Revision 2 (September 2002)

Case ID No. 34142

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102834405

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	31	155%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 155%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty is enhanced because the Respondent self reported 31 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 155%

Screening Date 6-Jul-2007 Respondent City of Frankston Case ID No. 34142 Reg. Ent. Reference No. RN102834405 Media [Statute] Water Quality Enf. Coordinator Heather Brister Violation Number <input type="text" value="1"/>	Docket No. 2007-1076-MWD-E <div style="text-align: right;">PCW</div> <div style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 26, 2007</div>																			
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010441001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6																				
Violation Description Failed to comply with its permitted effluent limits, as documented by a TCEQ record review of self-reported data conducted on June 12, 2007, and as shown in the attached table.																				
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="10%"/> </td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
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>> Programmatic Matrix																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="0%"/> </td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> A simplified model was used to evaluate total ammonia nitrogen ("NH₃-N"), carbonaceous biochemical oxygen demand ("CBOD"), and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors. </div>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>					
	Major	Moderate	Minor																	
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Adjustment <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
Violation Events																				
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quarterly	x																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
Four quarterly events are recommended.																				
Economic Benefit (EB) for this violation																				
<table style="width: 100%;"> <tr> <td style="width: 50%;"> Estimated EB Amount <input type="text" value="\$200"/> </td> <td style="width: 50%;"> Statutory Limit Test </td> </tr> </table>		Estimated EB Amount <input type="text" value="\$200"/>	Statutory Limit Test																	
Estimated EB Amount <input type="text" value="\$200"/>	Statutory Limit Test																			
Violation Final Penalty Total <input type="text" value="\$9,600"/>																				
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$9,600"/>																				

Economic Benefit Worksheet

Respondent City of Frankston
 Case ID No. 34142
 Reg. Ent. Reference No. RN102834405
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	31-Mar-2006	31-Mar-2008	2.0	\$200	n/a	\$200

Notes for DELAYED costs

Estimated cost for implementing necessary rehabilitation work to the Facility. Date Required is the initial month of noncompliance. Final Date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$200

Screening Date 6-Jul-2007

Docket No. 2007-1076-MWD-E

PCW

Respondent City of Frankston

Policy Revision 2 (September 2002)

Case ID No. 34142

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102834405

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010441001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006, as documented by a record review conducted on June 12, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
				x

Percent 1%

Matrix Notes

Approximately 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

328 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$240

This violation Final Assessed Penalty (adjusted for limits) \$240

Economic Benefit Worksheet

Respondent City of Frankston
Case ID No. 34142
Reg. Ent. Reference No. RN102834405
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2006	26-Jul-2007	0.9	\$4	n/a	\$4

Notes for DELAYED costs

This is the estimated cost to submit the annual sludge report, calculated from the date of noncompliance to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Effluent Limit Violation Table

Respondent	City of Frankston
ID Number(s)	WQ0010441001
Docket Number	2007-1076-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

EFFLUENT PARAMETER						
Permit Limit						
	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	pH Maximum 9.0 Standard Units	Flow Daily Average 0.20 Million Gallons per Day	Total Ammonia Nitrogen Daily Average 3. Milligrams per Liter	Total Ammonia Nitrogen Daily Average Loading 5 Pounds per Day	Biochemical Oxygen Demand Daily Average Loading 50 Pounds per Day
Month/Year						
Mar-06	2.9	9.3	c	N/A	N/A	59.3
Apr-06	c	9.8	c	NAC	NAC	N/A
May-06	3.2	9.7	c	c	c	N/A
Jun-06	2.4	9.6	c	c	c	N/A
Aug-06	1.2	c	c	c	c	N/A
Sep-06	1.5	c	c	c	c	N/A
Jan-07	c	c	0.209	6.88	5.53	N/A
Feb-07	c	c	c	6.37	6.13	N/A

c = compliant

NAC = No Analysis Conducted

N/A = Not Applicable

Compliance History

Customer/Respondent/Owner-Operator: CN600646418 City of Frankston Classification: AVERAGE Rating: 2.11
 Regulated Entity: RN102834405 CITY OF FRANKSTON CADDO CREEK WASTEWATER TREATMENT FACILITY Classification: AVERAGE
 Site Rating: 1.22

ID Number(s):	WASTEWATER	PERMIT	WQ0010441001
	WASTEWATER	PERMIT	WQ0010441001
	WASTEWATER	PERMIT	TPDES0033456
	WASTEWATER	PERMIT	TX0033456
	WASTEWATER LICENSING	LICENSE	WQ0010441001

Location: Located south of the City of Frankston, immediately north of Caddo Creek, and approximately 1000 feet south and 1500 feet east of the intersection of State Highway 175, in Anderson County, Texas. Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: July 06, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 06, 2002 to July 06, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 08/13/2002 (179422)
 - 2 08/20/2002 (179425)
 - 3 08/28/2002 (8587)
 - 4 10/18/2002 (179431)
 - 5 10/30/2002 (179428)
 - 6 11/18/2002 (179434)
 - 7 12/13/2002 (179438)
 - 8 01/21/2003 (179442)
 - 9 01/29/2003 (21873)
 - 10 03/25/2003 (179407)
 - 11 04/17/2003 (179412)
 - 12 04/30/2003 (179404)
 - 13 05/30/2003 (304380)
 - 14 06/20/2003 (179419)
 - 15 10/17/2003 (304381)
 - 16 11/17/2003 (304382)
 - 17 12/01/2003 (254853)
 - 18 12/15/2003 (304383)
 - 19 11/08/2004 (355744)
 - 20 11/08/2004 (355745)
 - 21 11/08/2004 (355746)
 - 22 11/08/2004 (355747)
 - 23 11/08/2004 (355748)
 - 24 11/08/2004 (355749)

25	11/08/2004	(355750)
26	11/08/2004	(355751)
27	11/08/2004	(355752)
28	11/08/2004	(355753)
29	11/08/2004	(355754)
30	11/08/2004	(355755)
31	11/08/2004	(355757)
32	11/17/2004	(355756)
33	12/06/2004	(343426)
34	12/20/2004	(442708)
35	01/18/2005	(383875)
36	02/17/2005	(383873)
37	03/18/2005	(383874)
38	04/15/2005	(421808)
39	05/16/2005	(421809)
40	06/03/2005	(393930)
41	06/16/2005	(421810)
42	07/18/2005	(442705)
43	08/17/2005	(442706)
44	09/19/2005	(442707)
45	10/20/2005	(472015)
46	11/16/2005	(472016)
47	12/19/2005	(472017)
48	01/17/2006	(472018)
49	02/21/2006	(472013)
50	03/20/2006	(472014)
51	04/20/2006	(500447)
52	05/18/2006	(500448)
53	06/19/2006	(500449)
54	08/18/2006	(522548)
55	09/21/2006	(522549)
56	10/18/2006	(547240)
57	11/20/2006	(547241)
58	12/21/2006	(547242)
59	01/16/2007	(547243)
60	06/26/2007	(563993)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: **07/31/2002** (179425)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2002** (179428)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2003** (179404)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2003** (179419)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2003** (355751)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2003** (355753)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2003** (304381)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2004** (355752)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2004** (355754)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2004** (355755)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2004** (355756)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2005** (421809)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2005** (421810)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2005** (442705)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2005** (442707)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2005** (472015)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2005** (472016)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2005** (472017)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2005** (472018)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2006** (472013)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2006** (500447)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2006** (500448)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2006** (500449)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **06/31/2006**
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2006** (522549)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (547240)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

- | | | |
|----|---|-----|
| F. | Environmental audits. | N/A |
| G. | Type of environmental management systems (EMSs). | N/A |
| H. | Voluntary on-site compliance assessment dates. | N/A |
| I. | Participation in a voluntary pollution reduction program. | N/A |
| J. | Early compliance. | N/A |

Sites Outside of Texas

N/A

**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF FRANKSTON
RN102834405**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-1076-MWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Frankston ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located south of the City of Frankston, immediately north of Caddo Creek, and approximately 1000 feet south and 1500 feet east of the intersection of State Highway 175 in Anderson County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Eight Hundred Forty Dollars (\$9,840) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Seven Thousand Eight Hundred Seventy-Two Dollars

(\$7,872) of the administrative penalty and One Thousand Nine Hundred Sixty-Eight Dollars (\$1,968) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City submitted the annual sludge report on July 26, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with its permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010441001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented by a record review conducted on June 12, 2007, and as shown in the following table:

EFFLUENT PARAMETER						
Permit Limit						
	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	pH Maximum 9.0 Standard Units	Flow Daily Average 0.20 Million Gallons per Day	Total Ammonia Nitrogen Daily Average 3 Milligrams per Liter	Total Ammonia Nitrogen Daily Average Loading 5 Pounds per Day	Biochemical Oxygen Demand Daily Average Loading 50 Pounds per Day
Month/Year						
Mar-06	2.9	9.3	c	N/A	N/A	59.3
Apr-06	c	9.8	c	NAC	NAC	N/A
May-06	3.2	9.7	c	c	c	N/A
Jun-06	2.4	9.6	c	c	c	N/A
Aug-06	1.2	c	c	c	c	N/A
Sep-06	1.5	c	c	c	c	N/A
Jan-07	c	c	0.209	6.88	5.53	N/A
Feb-07	c	c	c	6.37	6.13	N/A

c = Compliant NAC = No Analysis Conducted N/A = Not Applicable

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010441001, Sludge Provisions, as documented by a record review conducted on June 12, 2007.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Frankston, Docket No. 2007-1076-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- It is further ordered that the City shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit Number WQ0010441001. The certification shall include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed

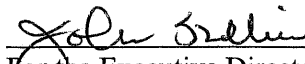
Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

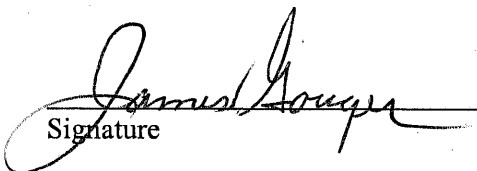
12/14/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10-29-07
Date

JAMES GOUGER, MAYOR
Name (Printed or typed)
Authorized Representative of
City of Frankston

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

